IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

MFA.No. 818 of 1996()

OPMV.1012/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI

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APPELLANT:

UNITED INDIA INSURANCE CO., LTD.,
REPRESENTED BY ITS MANAGER,
MOTOR THIRD PARTY CLAIMS OFFICE,
VETTUKATTIL BUILDINGS, JOS JUNCTION,
ERNAKULAM, KOCHI - 682 016.

BY ADV. SRI.P.SANKARANKUTTY NAIR
SRI.P.SANKARANKUTTY NAIR

RESPONDENTS:

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1. ATHYOLI KADEEJA, W/O.MOIDEEN KUTTY,
PARACHATHUMMAL VEEDU, KANNAVETTIKAVU,
VIA PULLIKKAL, ERNAD TALUK.

2. KODAKKATTAKATH SOUJATH, W/O.
LATE MUSTHAFA, PARACHATHUMMAL VEEDU,
KANNAVETTIKAVU, VIA PULLIKKAL, ERNAD TALUK.

3. JASMIN, MINOR, D/O.MUSTHAFA,
AGED 6 YEARS, PARACHATTHUMMAL VEEDU,
KANNAVETTIKAVU, VIA PULLIKKAL,
ERNAD TALUK.

4. LALITHA, MINOR, D/O.MUSTHAFA,
AGED 4 YEARS, PARACHATTHUMMAL VEEDU,
KANNAVETTIKAVU, VIA PULLIKKAL,
ERNAD TALUK.

5. NAUSHAD, MINOR, S/O.MUSTHAFA,
AGED 2 YEARS, PARACHATTHUMMAL VEEDU,
KANNAVETTIKAVU, VIA PULLIKKAL,
ERNAD TALUK
(MINOR RESPODNENTS 3 TO 5 REPRESENTED
GUARDIAN SECOND RESPONDENT).

6. SUNIL KUMAR, S/O.VASU,
ADUKATTI HOUSE, NEAR KOHINOOR TEXTILES,
RAMANATTUKARA.

7. C.0.POOKOYA THANGAL, S/O.V.P.MUTHUKOYA THANGAL, CHERUPULANGAL HOUSE, P.O.KODUVALLY, KOZHIKODE.

8. MOIDEENKUTTY, S/O.ENUDEEN, KANNAVETTIKAVU, VIA PULLIKKAL, ERNAD TALUK.

BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.SUNNY MATHEW

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.3249 AND 3464 OF 1996 IN CMP.3249 OF 1996:

DISMISSED.

22.10.2007

Sd/-
J.B.KOSHY, JUDGE
Sd/-
K.HEMA, JUDGE

/TRUE COPY/

PA TO JUDGE

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.818 OF 1996

Dated this the 22nd day of October, 2007

JUDGMENT

Koshy, J.

The appellant Insurance Company questions the award of the Motor Accidents Claims Tribunal, on the ground that the Insurance Company has liability to pay compensation to the dependents of a workman only as per the provisions of the Workmen's Compensation Act. It is also stated in the appeal that under the Act the amount payable is only Rs.84,716/-. But the total compensation awarded by the Tribunal was Rs.1,35,000/-. The accident occurred on 30.11.1991. As per the interim order dated 23.8.1996, after about five years, Rs.84,716/- was deposited by the Insurance Company. But apart from the above, interest was also payable under the Act including interest. Taking out the total amount awarded and the amount payable under the Act, there will not be much difference. We also note that the deceased at the age of 28 died leaving his young wife with three minor children aged 2 to 6 years. We also note that even though the appeal was filed in 1996, the appellant was not

able to serve notice on the owner of the vehicle insured. In the above circumstances, we are of the opinion that no interference is required in the award. The appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.818 OF 1996

JUDGMENT

22.10.2007